REMARKS

(1) A Request for Continued Examination has been requested with the appropriate Transmittal Letter (PTO/SB/30 (02-09)) and filed on even date herewith.

(2) Claims 1-30 are pending in this Application.

(3) Claims 1, 11 and 21 are independent.

(4) Claims 1-2, 4, 11-12, 14, 21-22 and 24 are amended hereby.

(5) The applicant respectfully thanks the Examiner for the telephonic Interview of March 19, 2009, for considering a draft amendment, and for the subsequent clarifying conversation of April 23, 2009. Additionally, the applicant thanks the Examiner for indicating that the applicant has addressed, and overcome and/or traversed by this present amendment, the 35 USC 112 issues raised in the present Office Action.

(6) The applicant respectfully proposes that this Application is in condition for allowance; and, notice to that effect is earnestly solicited hereby.

Objection under 35 USC §132

(1) The Examiner has objected, under 35 USC 132(a), to the amendment filed November 25, 2008 as introducing new subject matter into the disclosure. In making the objection, the Examiner has stated that: "The added material which is not supported by the original disclosure is as follows: Fig. 7 and its accompanying description (§6 of the specification amendment presented 11/25/2008). Applicant is required to cancel the new matter in the reply to this Office Action."

The applicant respectfully submits that there is support in the original disclosure for the inclusion of Figure 7 and its accompanying description. Further, the Examiner in the Office Action of April 15, 2008 (albeit not the present Examiner) requested the very drawing that is being objected to by the present Examiner. In the Office Action of April 15, 2008, the Examiner had indicated as follows on page 2 of that Action: "The drawings are objected to under 37 CFR 1.83(a) because they fail to show ... the display being a clothing display and the clothes being able to transmit the URL (claim 12)." Thus, the inclusion of Figure 7, and its accompanying description, were invited by the Examiner and find their support in the Specification.

The support for Figure 7 is found in claim 12, both in its original form, and as amended. Further, claim 12 finds its support in the Specification specifically at: (i) page 11, paragraph 2, line 5; (ii) page 11, paragraph 3, lines 1-2; (iii) page 23, paragraph 2, lines 1-2; and, (iv) at page 24, paragraph 1, lines 1-3. Because the support for Figure 7 and its description are present in the Specification, the inclusion of both the Figure and the description are merely cumulative and not "new" and serve to further the understanding of the Specification.

(2) The applicant respectfully submits that they have traversed the objection of the Examiner with respect to the objection under 35 USC 132(a) and that Figure 7 and its accompanying description remain in the Specification.

Objection due to Certain Informalities

The Examiner has objected to claim 2 because of certain informalities; specifically, "that there appears to be a typographical error."

The applicant has made amendment to claim 2 to correct the typographical error indicated by the Examiner. Therefore, the applicant respectfully submits that they have overcome the objection of the Examiner with respect to certain informalities.

Rejection under 35 USC §112

(1) The Examiner has rejected claims 2, 3 and 12 under 35 USC 112, first paragraph, for "failing to comply with the written description requirement".

(1)(a) With regard to claim 2, the present Office Action does not indicate why claim 2 is rejected. Indeed, there is no rejection of claim 2 under 35 USC 112, first paragraph, in the previous Office Action. The Examiner's rationale for rejection of claim 3 seems to be more closely directed to the language of claim 2, as amended by the Response to the previous Office Action; therefore, the applicant respectfully asserts that the response hereinbelow with respect to claim 3 is responsive to any rejection of claims 2 and 3 under 35 USC 112, first paragraph.

(1)(b) With regard to claim 3, the Examiner has indicated in the present Office Action that:

> ... the specification fails to describe 'an air mouse capable of activating the icon to cause the display to transmit the scanned data so as to place the URL into a browser of a user's home computer'. The specification fails to describe the display transmitting the scanned data directly into a browser of a user's home computer. The specification describes that the URL may be transmitted to a transceiver and then transmitted to a browser of a user's home computer in a second operation (Spec 21-22), but fails to describe transmitting directly to the browser in a single operation.

The applicant has made amendment to claim 2 hereinabove so as to address the rejection of the Examiner with regard to both claims 2 and 3.

(1)(c) With regard to claim 12, the Examiner has indicated in the present Office Action that "the subject matter of enabling the clothing to transmit the URL is not disclosed ... the Examiner recommends amending claim 12 to claim a transmitter attached to clothing."

The applicant respectfully thanks the Examiner for indicating that an appropriate amendment to the claim would address the Examiner's rejection. The applicant has made

amendment to claim 12 hereinabove so as to address the rejection of the Examiner with respect to the transmitter being attached to the clothing.

(1)(d) Based on the clarifying amendments, the applicant believes that they have overcome the Examiner's rejection of claims 2, 3 and 12 under 35 USC 112, first paragraph.

(2) The applicant respectfully thanks the Examiner for indicating that: "Applicant's arguments with respect to the rejection of claims 1, 2, 11 and 21 under 35 USC 112, second paragraph, have been considered and are persuasive. That rejection has been withdrawn."

(3) The Examiner has rejected claims 4, 12, 14, 22 and 24 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, to wit:

(3)(a) In regards to claims 12 and 22, the Examiner has rejected the claims due to lack of antecedent basis for "the information display".

The applicant has made amendment to claims 12 and 22 to more distinctly claim the subject matter that the applicant regards as the invention. Therefore, the applicant respectfully submits that they have overcome the rejection of the Examiner of claims 12 and 22 under 35 USC 112, second paragraph.

(3)(b) In regards to claims 4, 14 and 24, the Examiner has rejected the claims because the use of the description "substantially constantly" is a relative term which renders the claim indefinite.

The applicant has made amendment to claims 4, 14 and 24 to more distinctly claim the subject matter that the applicant regards as the invention. Therefore, the applicant respectfully submits that they have overcome the rejection of the Examiner of claims 4, 14 and 24 under 35 USC 112, second paragraph.

(3)(c) Based on the above, the applicant respectfully submits that they have traversed the rejection of claims 4, 12, 14, 22 and 24 by the Examiner under 35 USC 112, second paragraph as being indefinite.

Rejection under 35 USC §103

(1) The Examiner has rejected claims 1, 5, 7, 10-13, 16-17, 20-23, 26-27 and 30 under 35 USC 103(a) as being unpatentable over U.S. Patent Pub. No. 2002/007896 issued to Liu et al (hereinafter referred to as *Liu*) in view of U.S. Patent No. 6,385,591 issued to Mankoff (hereinafter referred to as *Mankoff*).

(1)(a) In rejecting claims 1 and 21 of the applicant's present claimed invention as being unpatentable over *Liu* in view of *Mankoff*, the Examiner, in referencing the applicant's Response to the prior Office Action, has stated that:

> ... Liu et al. discloses, a system and method of facilitating the dissemination of information comprising:
> ... v. whereby a respective interested user upon seeing the display (fig. 1 #112) and graphic identifier (advertisement) may use a respective hand-held transceiver (fig. 1 #118-#122) to receive the information transmitted by the target and selectively activate the information independent of the target (0053 line(s) 3-4, 12-13).

The applicant respectfully submits that the citations made by the Examiner are not so all-encompassing that they include the identifier of the applicant and the ability to selectively activate the information independent of the target.

The identifier of the applicant is defined as: "... indicating to the plurality of users that the target comprises the memory assembly and transmitter (claim 1(d))." There is no teaching in *Liu* that the advertisement of *Liu* comprises the memory assembly and transmitter. Rather, *Liu* teaches that: "Typically, a user or potential customer may view an advertisement displayed on display 112 and request more information on the item or items being presented. These items may be for goods or services." (*Liu* at 0028, lines 4-80). There is no teaching, nor suggestion, in *Liu*

that a user in looking at an advertisement of *Liu* is aware that the target comprises the memory assembly and transmitter. Thus, the advertisement of *Liu* is not the identifier of the applicant.

The Examiner has stated that *Liu* teaches the ability "to receive the information transmitted by the target and selectively activate the information independent of the target (0053 line(s) 3-4, 12-13)." The applicant respectfully disagrees. The cite referred to, states that: "... In display 712, further actions are presented. The particular actions depend on the particular interface for the mobile device." *Liu* does not teach that any of the available actions allow the user to receive the information transmitted by the target and selectively activate the information independent of the target. *Liu* does suggest that the PDA can interface with the target in a back and forth manner, but there is no teaching, for instance, that the PDA can transmit the URL to a browser independent of the target.

With regards to *Mankoff*, the Examiner has stated that:

> With regard to the rejection of claims 1 and 21 under 35 USC 103(a), and Applicant's assertion that Mankoff 'is not in the same field of endeavor' because 'there are no provisions in Mankoff for transmitting a URL in any other mode other than in synched mode' (Remarks 13-14), the Examiner respectfully disagrees. Mankoff teaches that the PDA device may receive the URL directly from the server via the internet (col. 5, II. 7-20).

The applicant respectfully disagrees with the Examiner's assertion that the PDA device of *Mankoff* receives a URL directly from the server via the internet without being synched to the host to accomplish the act. *Mankoff*, at col. 3, lines 16-27, teaches that:

> ... a representative handheld computing client device 15 such as a personal digital assistant or PDA. ... PDA 15 also includes synchronization software 19 that interfaces with an associated routine supported in the desktop computer to facilitate synchronization of data between the desktop and the PDA over a communications link 21...

Thus, there is no selective process in *Mankoff*. The download is to the PDA and must reside in the PDA until it is synched with another computer. There are no provisions in *Mankoff* for transmitting a URL in any mode other than in the synched mode. Indeed, to redeem a coupon,

the user must synch the PDA to the host and then download from the host so that the coupon can be subsequently stored or printed (*Mankoff* at col. 4, lines 18-25). Further, there is no teaching in *Mankoff* that the URL is of any value to the underlying invention. *Mankoff* neither teaches nor suggests that the use of the URL is desireable.

Therefore, the applicant respectfully submits that they have traversed the Examiner's rejection of claims 1 and 21 under 35 USC 103(a).

(1)(b) In rejecting claims 5 and 25, the Examiner has stated in the present Office Action that: "Liu et al. discloses, wherein the transmitter is a passive transmitter, whereby the respective hand-held transceiver is adapted to provide energy that activates the transmitter (0064 line(s) 1-5)." The applicant respectfully disagrees.

Paragraph 0064 of *Liu* states that:

> The process begins by receiving a request from a mobile device (step 1100). This request may take various forms, such as, for example, establishment of a wireless connection with the electronic billboard system or a message requesting information for a particular item.

The Examiner appears to be using hindsight in establishing that the request from the mobile device of *Liu* supplies the power necessary to activate the transmitter associated with the electronic billboard system. At best, a reading of paragraphs 0063 and 0064 of *Liu,* together, suggests that the data processing system of the electronic billboard system supplies the power necessary to activate the transmitter, and not the mobile device. At any rate, the passages cited do not teach that the transmitter is a passive transmitter (it may be continually active), whereby the respective hand-held transceiver is adapted to provide energy that activates the transmitter.

Therefore, the applicant respectfully submits that they have traversed the Examiner's rejection of claims 5 and 25 under 35 USC 103(a).

(1)(c) In rejecting claims 7, 17 and 27, the Examiner has stated in the present Office Action that:

> Liu et al. does not teach, wherein the URL is a specific embedded page of a website. In the same field of endeavor Mankoff teaches it is obvious to downloading/sending [sic] URLs to a hand-held transceiver by downloading a coupon from a client (target) to a PDA (hand-held transceiver), that includes contact information associated with the coupon provider ... Wherein the URL is directed to the specific product of the coupon (Col. 3 line(s) 55-62, Col. 4 line(s) 18-20, 23-25).

The applicant respectfully submits that, hereto, the Examiner appears to be using hindsight to make the coupon of *Mankoff* fit the URL of the applicant. *Mankoff* teaches that:

> A given virtual coupon 40, as illustrated in FIG. 3, may comprise a data file of information including, without limitation, a discount offer 42, contact information 44 ...a hyperlink 54 to the provider's website, and other useful information. *Mankoff* at col. 3, lines 55-62.

That the coupon of *Mankoff* comprises "useful information," which may include a hyperlink, is not a teaching, nor a suggestion, that the URL of the applicant is a specific embedded page of a website. A coupon is not a website, it is a datafile, or a collection of datafiles, if kept in its virtual state.

Therefore, the applicant respectfully submits that they have traversed the Examiner's rejection of claims 7, 17 and 27 under 35 USC 103(a).

(1)(d) In rejecting claim 11 as being unpatentable over *Liu* in view of *Mankoff*,, the Examiner has stated in the present Office Action that:

In rejecting claim 11 of the applicant's present claimed invention as the Examiner, in referencing the applicant's Response to the prior Office Action, has stated that:

> ... Liu et al. discloses, a system of facilitating the dissemination of information comprising:

> ... xi. whereby a respective interested user upon seeing the display (fig. 1 #112) and graphic identifier (advertisement) may use a respective hand-held transceiver (fig. 1 #118-#122) to receive the information transmitted by the target and selectively activate the information independent of the target (0053 line(s) 3-4, 12-13).

As with the Remarks directed to the rejection of claims 1 and 21, the applicant respectfully submits that the citations made by the Examiner are not so all-encompassing that they include the identifier of the applicant and the ability to selectively activate the information independent of the target.

The identifier of the applicant is defined as: "... indicating to the plurality of users that the target comprises the memory assembly and transmitter (claim 1(d))." There is no teaching in *Liu* that the advertisement of *Liu* comprises the memory assembly and transmitter. Rather, *Liu* teaches that: "Typically, a user or potential customer may view an advertisement displayed on display 112 and request more information on the item or items being presented. These items may be for goods or services." (*Liu* at 0028, lines 4-80). There is no teaching, nor suggestion, in *Liu* that a user in looking at an advertisement of *Liu* is aware that the target comprises the memory assembly and transmitter. Thus, the advertisement of *Liu* is not the identifier of the applicant.

The Examiner has stated that *Liu* teaches the ability "to receive the information transmitted by the target and selectively activate the information independent of the target (0053 line(s) 3-4, 12-13)." The applicant respectfully disagrees. The cite referred to, states that: "... In display 712, further actions are presented. The particular actions depend on the particular interface for the mobile device." *Liu* does not teach that any of the available actions allow the user to receive the information transmitted by the target and selectively activate the information independent of the target. *Liu* does suggest that the PDA can interface with the target in a back and forth manner, but there is no teaching, for instance, that the PDA can transmit the URL to a browser independent of the target.

With regards to *Mankoff*, the Examiner has stated that:

> In the same field of endeavor Mankoff teaches it is obvious to downloading/sending [sic] URLs to a hand-held transceiver by downloading a coupon from a client (target)

> to a PDA (hand-held transceiver), that includes contact information associated with the coupon provider ... Wherein the URL is directed to the specific product of the coupon (Col. 3 line(s) 55-62, Col. 4 line(s) 18-20, 23-25).

The applicant respectfully submits that, hereto, the Examiner appears to be using hindsight to make the coupon of *Mankoff* fit the URL of the applicant. *Mankoff* teaches that:

> A given virtual coupon 40, as illustrated in FIG. 3, may comprise a data file of information including, without limitation, a discount offer 42, contact information 44 ...a hyperlink 54 to the provider's website, and other useful information. *Mankoff* at col. 3, lines 55-62.

That the coupon of *Mankoff* comprises "useful information," which may include a hyperlink, is not a teaching, nor a suggestion, that the URL of the applicant is a specific embedded page of a website. A coupon is not a website, it is a datafile, or a collection of datafiles, if kept in its virtual state.

Therefore, the applicant respectfully submits that they have traversed the Examiner's rejection of claim 11 under 35 USC 103(a).

(2)(a) The Examiner has rejected claim 12 under 35 USC 103(a) as being unpatentable over *Liu*. In making the rejection, the Examiner stated that: "In regards to claim 12 Liu et al. discloses, wherein the information display is a clothing display and the clothing is enabled to transmit the URL (0027 line(s) 1-20)".

The applicant respectfully submits that they have made amendment to claim 12 hereinabove; and, that such amendment obviates the rejection of the Examiner.

Therefore, the applicant respectfully submits that they have traversed the Examiner's rejection of claim 12 under 35 USC 103(a).

(2)(b) The Examiner has rejected claim 22 under 35 USC 103(a) as being unpatentable over *Liu*. In making the rejection, the Examiner stated that:

> In regards to claim 22 Liu et al. discloses, wherein the information display is one of a plurality of store displays (fig. 1 #112 and 0058 line(s) 7-8, and a website hub controls (fig. 1 #108 and 0056) the rotation of the URLs to said plurality of store display by time of day (0057 line(s) 8-16) or by store depending on respective locations and time zones (0057 8-16).

The applicant respectfully submits that paragraphs 0057 and 0058 of *Liu* teach the "process used to schedule an advertisement on an electronic billboard system" (description found at 0056 at lines 1-6). The process is established by receiving a request indicative of availability, scheduling, or negotiation. A response to the request "may include a select [sic] of a particular date or dates and location or locations for an advertisement (*Liu* at paragraph 0057) ... the advertisement information is transferred to one or more electronic billboard systems (step 916) with the process terminating thereafter." (*Liu* at paragraph 0058).

There is no teaching, nor suggestion, in the cited paragraphs of *Liu* that "website hub controls the rotation of the URLs to said plurality of sore displays by time of day or by store depending on respective locations and time zones."

Therefore, the applicant respectfully submits that they have traversed the Examiner's rejection of claim 22 under 35 USC 103(a).

(2)(c) The Examiner has rejected claim 30 under 35 USC 103(a) as being unpatentable over *Liu*. In making the rejection, the Examiner stated that: "In regards to claim 30 Liu et al. discloses, further comprising data mining of users who initiate communication with the transmitter (0065 line(s) 5-12)."

The applicant respectfully submits that the Examiner has misapplied the teachings of *Liu*, in that *Liu* teaches "maintaining statistical information on mobile devices accessing the electronic billboard system". (0065 line(s) 10-12). The maintenance of statistical information on a mobile device is not the same as maintaining the information regarding that device's user.

Therefore, the applicant respectfully submits that they have traversed the Examiner's rejection of claim 30 under 35 USC 103(a).

(3) The Examiner has rejected claim 2 under 35 USC 103(a) as being unpatentable over *Liu*, in view of *Mankoff*, in view of US Pat. Pub. No. 2002/0047868 to Miyazawa (hereinafter referred to as *Miyazawa*). In making the rejection, the Examiner stated that:

> In regards to claim 2, Liu et al. nor Mankoff teaches wherein the information display is an electronic display, an icon resides on the electronic display, and information on the icon is accessible with an air mouse to place the URL into the browser of the user's home computer.
> In the same field of endeavor Miyazawa's teach [sic] posting messages on an electronic bulletin board, in an icon format, that is accessible by a plurality of users using their cellular phone (air mouse) to retrieve the information to be viewed (0040 line(s) 3-5).

The applicant respectfully submits that for the reasons advanced hereinabove, with respect to *Mankoff* and *Liu*, there is no motivation to combine the teachings of *Mankoff* with those of *Liu* and *Miyazawa*; and, that without such motivation or suggestion than the references should not be combined. Further, even if there were motivation to combine the teachings of the references cited by the Examiner, the result would not be the applicant's claimed invention. Additionally, the cell phone of *Miyazawa* is not the air mouse of the applicant. There is no teaching, nor suggestion, in *Miyazawa* that a cell phone is capable of transmitting a URL into a browser of a home computer as is claimed in applicant's claim 2. Further, the applicant respectfully submits that they have made amendment to claim 2 hereinabove; and, that such amendment obviates in part and overcomes in part the rejection of the Examiner.

Therefore, the applicant respectfully submits that they have traversed the Examiner's rejection of claim 2 under 35 USC 103(a).

(4) The Examiner has rejected claim 3 under 35 USC 103(a) as being unpatentable over *Liu*, in view of *Mankoff*, in view of *Miyazawa* as applied to claim 2 above, and further in view of US Patent No. 7,237,252 issued to Billmaier (hereinafter referred to as *Billmaier*).

In rejecting claim 3, the Examiner has stated that *Billmaier* teaches "the ability to purchase products that are shown on television either through a schedule TV show or commercial, by clicking on an icon."

The applicant respectfully submits that for the reasons advanced hereinabove, with respect to *Mankoff*, there is no motivation to combine the teachings of *Mankoff* with those of *Liu*, *Miyazawa* and *Billmaier*; and, that without such motivation or suggestion than references should not be combined. Further, even if there were motivation to combine the teachings of the references cited by the Examiner, the result would not be the applicant's claimed invention. Additionally, *Billmaier* teaches that the data relevant to the purchase is stored at the display, not at the hand-held transceiver (*Billmaier* at col. 12, lines 39-52) as is the case with the applicant's claimed invention. In the present claimed invention, there is an interplay of the data necessary to complete a purchase. A buyer profile is in the hands of the buyer and the website data is in the hands of the advertiser.

(5) The Examiner has rejected claims 4, 9, 15, 19, 24 and 29 under 35 USC 103(a) as being unpatentable over *Liu*, in view of *Mankoff*, as applied to claims 1, 11 and 21 above and further in view of US Pat. Pub No. 2001/0051900 issued to Fisher et al. (hereinafter referred to as *Fisher*).

In making the rejection the Examiner states that *Fisher* teaches "an interactive advertising display that provides requested information to customers via a hand-held transceiver. Wherein the transmitter is an active transmitter, since it is continuously updated based on a set time by the server."

The applicant respectfully calls the Examiner's attention to the definition of an active transmitter in the applicant's claimed invention: "If transmitter 30 is an active transmitter, the information stored in memory 15 is substantially continually or constantly being transmitted, whereby an interested user merely chooses to accept the information being transmitted." Thus, utilizing the applicant's definition, the transmitter of *Fisher* is not an active transmitter. It is an intermittent transmitter at best, because there is a regular and recurring period when the

transmitter is not transmitting. That being the case, and with no teaching nor suggestion by *Fisher* that the transceiver of *Fisher* supplies the energy to cause the transmitter to transmit, albeit intermittently, then there is the greater likelihood that potential target customers will miss the transmission altogether because they were not in proximity to the transmitter during its ten minute cycle (see *Fisher* at 0046).

Therefore, based on the Remarks hereinabove, there is no teaching, nor suggestion, to combine the teachings of *Fisher* with those of *Liu* and *Mankoff*; and if such combination were to be effected, the result would not be the applicant's claimed invention. Thus, the applicant respectfully submits that claims 4, 9, 15, 19, 24 and 29 are otherwise patentable.

(6) The Examiner has rejected claim 6 under 35 USC 103(a) as being unpatentable over *Liu*, in view of *Mankoff*, as applied to claim 1 above and further in view of IBM Technical Disclosure Bulletin *Cellular Phone with Auto Dialing* (hereinafter referred to as *IBM*).

In rejecting claim 6, the Examiner stated that: "In the same field of endeavor *IBM* teaches a cellular phone receiving a phone number and automatically dialing without user intervention."

The applicant respectfully submits that while *IBM* might teach automatically dialing without user intervention, there is no teaching, nor suggestion, in *IBM* that the dialing is the result of the data retrieved with the URL from the target. Thus, the applicant respectfully submits that the claim is otherwise patentable because there is no motivation to combine the references for the reasons stated above with respect to *IBM* and earlier herein with respect to *Mankoff*.

(7) Dependent claims not specifically addressed in the Remarks hereinabove are thought to inherent the benefit of the allowability of the claims from which they depend.

(8) For the reasons indicated herein above, the applicant respectfully submits that they have traversed the rejections of the Examiner with respect to the applicant's claimed invention as being unpatentable under 35 USC 103(a).

Conclusion

Applicant respectfully submits that claims 1-30 are allowable for at least the reasons noted hereinabove. A Notice of Allowance is therefore respectfully requested hereby.

The Commissioner is hereby authorized to charge any fees which may be necessary for the consideration of this communication, or any additional fees required during examination of this application, and to credit any overpayment to Deposit Account No. 10-0100 (Attorney Docket No. ELLIO.P0201).

Respectfully submitted,

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Date

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